

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

HANK ARKULARI,

Petitioner,

vs.

Respondent.

**8:22CV395**

**MEMORANDUM AND ORDER**

This matter is before the Court on its own motion. Petitioner filed a Petition for Writ of Habeas Corpus, [Filing No. 1](#), on November 14, 2022. However, Petitioner failed to include the \$5.00 filing fee. Petitioner has the choice of either submitting the \$5.00 fee to the Clerk's office or submitting a request to proceed in forma pauperis. If Petitioner chooses to do the latter, the enclosed pauper's forms should be completed and returned to this Court. Failure to take either action within 30 days will result in the Court dismissing this case without further notice to Petitioner.

Additionally, Petitioner failed to name a respondent in his Petition. See [Filing No. 1](#). Rule 2(a) of the *Rules Governing Section 2254 Cases in the United States District Courts* states that "if the petitioner is currently in custody under a state-court judgment, the petition must name as respondent the state officer who has custody." In habeas corpus challenges to present physical confinement, the default rule is that the proper respondent is the warden of the facility where the prisoner is being held. [Rumsfeld v. Padilla](#), 542 U.S. 426, 434 (2005). On the Court's own motion, Diane Sabatka-Rine, the interim director of the Nebraska Department of Correctional Services, will be added as the proper respondent in this matter.

IT IS THEREFORE ORDERED that:

1. Petitioner is directed to submit the \$5.00 fee to the Clerk's office or submit a request to proceed in forma pauperis within 30 days. Failure to take either action will result in dismissal of this matter without further notice.
2. The Clerk of the Court is directed to send to Petitioner the Form AO240 ("Application to Proceed Without Prepayment of Fees and Affidavit").
3. The Clerk of the Court is directed to set a pro se case management deadline in this matter with the following text: **December 22, 2022**: Check for MIFP or payment.
4. The Clerk of the Court is directed to update the Court's records to add Diane Sabatka-Rine as the sole respondent in this action.

Dated this 22nd day of November, 2022.

BY THE COURT:



Joseph F. Bataillon  
Senior United States District Judge